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Date/time stamp: Tue 14th Apr, 2015 @ 20:48 EDT. Thank you.

To Finance Committee Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.), and respective members and staff:

I am grateful for this opportunity to provide insight into reforming our nation's tax Code.

Our Code is complex; any comments - to be of any value, must be nuanced and understood in their context; this takes time - please take the time to read my comments.

I'm typing to you from my office, where I've already put in 15+ hours, and have not had a day off in a month. I have not seen my young children for more than a few minutes in the morning since mid March. I'm exhausted and drained. BUT - as I have dedicated my career to helping people comply with the tax code as a CPA for almost 2 decades, I felt that out of service to my clients and to my fellow citizens, that submitting comments to you was a civic duty.

The fact of the matter is our tax Code creates a tremendous amount of suffering, hardship, and confusion. I've been a CPA for 18 years. I work with my father who has been a CPA for 42 years. Together, we have seen the Code go through several major changes as well as the annual rule changes. My comments here are as close to the trenches of actual Americans' experiences with our Code as you can possibly get. I speak for people of all strata of our socio-economic life; from dishwashers, drivers, salesmen, to attorneys, engineers, and doctors. From small non-profit organizations, to mom & pop stores, to larger manufacturers. From young people learning about FICA for the first time with their first paycheck to retirees making due with Social Security checks and eviscerated pension payments.

Before continuing, here is a bit of levity:

The late great Albert Einstein once admitted that figuring out his U.S. income tax was beyond him—he had to go to a tax consultant. “This is too difficult for a mathematician,” said Einstein. “It takes a philosopher.”

Ladies and gentlemen, I am that (humble) philosopher.

Here is what I've learned in 2 decades of preparing tax returns:

Perception is not reality: In my dealings with doctors and scientists, they think that they can apply their sense of logic to taxes. That is simply not the case. Doctors, engineers, and scientists deal with logic as it exists in nature. The rules of math and physics are predictable and resolute. Tax law on the other hand is subject to the "logic" of humanity. That is to say, fear and ignorance are the rules that guide the Code.

Thesis:

The tax Code is overly complex and such complexity causes suffering, needless suffering in our people. Complexity leads to misunderstanding, which causes superstition, which creates the environment that leads to fraud. Amazingly, we have high voluntary compliance; which is a true strength of our people. In fact, most people want to comply with our Code as a matter of moral obligation; a sense of civic duty.

11 brief “war stories” to demonstrate the real world effects of Tax Law, Treasury Regulations, Internal Revenue Bulletins, and Tax Court cases, and other pronouncements:

1) A low income client had her refund withheld by the State. The Federal Government has the CP-2000 matching program. The states on the other hand, do not. The State does not get verification of (Form W-2) Box 17 state income tax withholdings from the federal eFile program. Therefore, the State randomly selects 10% of all eFiled returns for extra scrutiny. But, the State never sends a notice to the taxpayer, they just hold the refund indefinitely until the taxpayer (or their representative) petition the state for information. In this particular matter, the client suffered an abscess in her tooth and needed dental surgery to relieve her condition - which was very painful, in addition to being life threatening. She was counting on that refund to pay for the procedure. This was literally a matter of life or death for this poor woman. Eventually, the dentist performed the procedure on the promise that she would forward her refund to him once she received it - 2 months later.

How hard is it to send the States all the relevant info from the eFile that is received by the IRS?

2) A Taxpayer's child had their return prepared by “Large National Retail Tax Preparation Company”. The associate at “Large National Retail Tax Preparation Company” (erroneously) told this young person that they could claim expenses for child care paid to their mother in order to take the child care credit on Form 2441. The associate told the young person that this would not impact their mother's tax situation. The reality is that the young person did not pay a single penny to their mother for day care; yet the preparer did the return anyway. The taxpayer in question did not want their child to get in trouble, so they reported the income on their own return and paid additional tax - on income never received.

This had been going on for several years, it was only this year that the associate at “Large National Retail Tax Preparation Company” asked the child for their parent’s SSN.

“Large National Retail Tax Preparation Company”, and all of the retail based preparers and software providers are not incentivized to prepare complete and accurate returns. They are instead incentivized to maximize one's refund - which on the surface is a laudable goal; but not to the extent that doing so ventures into outright fraud. They don’t answer to Congress, they answer to their Shareholders. There is a conflict of interest inherent in this business model.

3) A physician engages a professional tax preparer and inquires if the tax preparer knows about, “the special rules for doctors.” Upon further questioning, it is determined that the physician was asking about unreimbursed employee business expenses – open to any taxpayer that has a legitimate claim. Highlighted here to illustrate how even well educated professional people have no clue about the tax code.

In reviewing the physician’s prior year return – a standard practice for any professional tax preparer, it is noted that said return was prepared by “Large National Retail Tax Preparation Company”. The physician noted that the associate assigned to the physician’s case from “Large National Retail Tax Preparation Company” insisted on claiming several deductions on the physician’s behalf that the physician never incurred. Among them was an item for, “watch repair”, which the physician pointed out that they don’t wear watches in the operating suite. In asking why the physician allowed the return to be prepared with deductions known to be false, it was stated that the associate from “Large National Retail Tax Preparation Company” insisted on filing the return in this manner, stating that the IRS allows it.

4) A man immigrates to the USA. Over 25 years, he marries, builds a career and family in this country and achieves success. Back in his home country, his father passes. In working through his father's estate, he realized that his father opened a bank account for him just after he immigrated to the USA. The bank account was in the father's home country. The bank account, which was intended to be a surprise gift from father to child, was seeded with money and funded over the years. By the time the father died, the account had over \$100K in it.

The man never knew of this account, but because the father opened it in the man's name and ID number, the son suddenly found that he was in violation of FATCA. Now the son owes the entire balance and interest and penalty. The father's gift has become the son's nightmare. Surely Congress did not intend for this to happen.

5) A young man opens a business for himself; it's a single owner pass through entity based on the man's professional services. The tax professional advising him tells him to elect S Corp status and pay himself \$1K per quarter as salary and take the rest of his compensation out as a distribution. The professional botches the incorporation of the entity at the State level, but the S election gets ratified by the IRS anyway.

Fortunately, the man changed firms and the new firm counseled him away from this course of action. Not only is it misleading to grossly understate earnings for the sake of "playing the self employment tax game", but by consistently underreporting one's earnings over the course of a career, one's social security benefits will be greatly reduced at retirement. Congress must pass clear legislation ending this practice.

6) Too many conversations start with, "But I heard that..." or "My neighbor told me..." There is so much confusion and superstition with the Code. It paralyzes people. They don't know what to do. So they do nothing. There has to be a way to bring people back into the light once they fall off the path. If one falls behind, even by just a couple of quarters, it is impossible to get back on track. Too often people get into trouble, often through no fault of their own (illness, divorce, layoff), and can't fix their situation because of superstition about what is allowable and what isn't.

7) A young couple, newly married, mid 20's: Both have about the same amount of wage income. Both have their filing status as set to M-0. Upon preparing their return, it is discovered that they owe a significant amount of tax at the Federal level. In investigating the cause, it is determined that their respective employers did not take enough withholding out for income tax. While it is ultimately the taxpayer's responsibility to ensure proper withholding throughout the year, most people are simply not aware of this and wouldn't know what to do if they were aware. The employers used the information available through Circular E. In this case, the taxpayers were completely blindsided by this. And in claiming zero exemptions, the challenge now is to run projections to make sure they don't get into the same situation next year. These people are responsible, fastidious, and endeavored to do everything right, yet they still got hammered – and subject to underpayment penalty.

8) A man gets divorced. He and his ex have interests in a pass through entity from when they were married. The pass through entity has a great year and earns a lot of net income. The pass through entity does not make a tax distribution. The man subsequently has a high tax bill for his share of the income, but has not received a

single penny of value for the tax bill. He has no recourse against the government - nor should he - but he also doesn't have the resources to sue the ex. There is no justice here; only pain.

9) A person gets audited by the IRS. The person has a friend who works as a Comptroller who advises him, "Don't get an attorney or a CPA. If the IRS sees you have representation, they will go harder on you." The person subsequently gets completely railroaded by an aggressive revenue agent who's looking out for his employer (as he should). The well meaning friend committed grievous malpractice. In reality; the presence of an attorney, CPA, or Enrolled Agent serves to ensure that the IRS will play by the rules. The affected taxpayer here, at middle age, had their entire retirement account liquidated to cover the tax debt, their credit was trashed. They will never recover. They will never be able to retire. When they get too old to work, they will be impoverished and become a ward of the state.

10) A person is their own worst enemy. The person stopped using "National Tax Software Brand A" because, "it wasn't powerful enough." They switched to "National Tax Software Brand B". Somehow, they manipulated the software to produce a large refund. The IRS audited the return - and they were right to do so. The issue here is that the software industry facilitates this type of behavior with their marketing and product positioning - making tax preparation to be like a game. It's not a game; it's compliance with the law.

11) An elderly man passes. His adult children have no training on financial matters. In their grieving, they fail to file a final return for their deceased father. The IRS assesses the income to the children and pursues collections actions. So much for family values.

Based on these stories, and many, many more collected over the decades, here are 18 suggestions for reforming our nation's tax Code:

1) The political process must be separated from the tax code. The Code's importance to the financial security and pursuit of liberty and happiness of our people must take precedence over parochial and fleeting politics. There are thousands and thousands of words in the Internal Revenue Code. But nowhere is the term, "This Code is fair." The Code is subject to the influence of those with money.

Look at the history of Code Section 401(k). It was passed when a single company lobbied for it in order to compensate 2 of its high ranking managers. A couple of years later, it began to spread as other companies adopted it. I believe that this is one of the things that ultimately killed our nation's pension system as we (used to) know it. Once companies were able to transfer the burden of providing for their workers in retirement, they shucked that off as quickly as they could. Whether we as a nation are better off with defined compensation plans or defined benefit plans; that's an experiment whose results won't be in until my generation hits retirement - if we'll ever be able to retire.

I don't pass judgment here. Rather, it's the overall process: how could a company literally buy a code section? There is an inherent unfairness to the entire process. The average taxpayer could never hope to have the code rewritten to their benefit. If you want to encourage more voluntary compliance, you have to put a stop to this practice.

2) The tax preparation industry must be as tightly regulated as attorneys, CPAs, EAs - that further - such ads as "Get your billions America" are misleading and only perpetrate the damaging and blatant misconceptions about what the tax Code is designed to do and how it operates. This isn't a game. It's not about getting a giant refund; it's about complying with the law. The FCC should investigate such claims that the large preparers make concerning their guarantees; they only guarantee their formulas; they don't protect people from the numbers they enter. This is misleading to the taxpayer who thinks that "National Tax Software Brand A" and "Large National Retail Tax Preparation Company" will protect them in an audit.

The IRS made attempts to regulate the tax preparation industry only to be sued out of it by the industry itself. As a CPA who focuses on tax preparation, I am hereby begging Congress to allow the IRS to regulate the industry. I've seen the after effects of all the harm that unregulated preparers bring to taxpayers. You must put a stop to this.

Did you know that "Large National Retail Tax Preparation Company" hires people off the street and after a brief training period, puts them out in the public - with little supervision? Don't take my word for it - and certainly don't take any of the "Large National Retail Tax Preparation Companies'" word for it.

Suggestion: Launch an investigation and send undercover agents into various chain locations around the country and have a sample return prepared. Do this in multiple locations, different companies; same data set - you'll find multiple outcomes; many of which will not be legitimate. You will be shocked by the results.

3) The government issues regulations, interpretations, revenue bulletins, and other official statements without any context on how such pronouncements impact the people that have to actually comply with this stuff. In effect, the government places flaming hoops of variable heights in our path, and then constantly moves their position; only to whip us down if we bungle the jump. In this regard, the IRS is too hostile and

unforgiving for innocent mistakes. The laws are increasingly complicated. Not even the IRS understands how to enforce these laws.

Further - and especially this filing season - the government issued rule changes that affected the actual tax season in question. Usually, the new rules go into effect in the next season. The effect of this was to shorten the amount of time we had to prepare returns. And what of the returns filed before the rule changes? They were correctly filed at the time, but incorrect after the rule change. What do we do? Do we amend, or hope that Congress passes a grandfather clause as relief? How can we advise our clients in such an environment?

At the end of the 3rd Jason Bourne movie, "The Bourne Ultimatum", the main character, Jason Bourne says, "Look at us. Look what they make us give." To which I implore you, members of the House and Senate, look at us taxpayers. Look at what you make us do. The average taxpayer - old, young, rich, poor, educated, illiterate, professional, blue collar, sophisticated, and novice - have no clue about the true intricacies, complexities, and requirements of the Code.

This is the single biggest source of misery about tax. This is the cause of all the problems.

There is a perpetual debate about higher taxes, lower taxes - that's not the issue. The issue is PREDICTABLE taxes. Consistent and logical taxes that are easy to remember and easy to follow. Which leads to this next point:

4) Consider adopting a gross income tax system. Far better than giving a benefit that targets a specific audience with the various deductions, exemptions, and credits - just reduce the tax rates (while keeping the progressive nature of the tax brackets and filing statuses). The government should have no interest on whether people move or not, whether people get sick or not, whether they save or not, whether they rent or not. While a flat tax is regressive; a gross income tax achieves the simplicity of a flat tax while maintaining the progressiveness of the current system.

5) Abolish the AMT; I agree with the reasons behind its creation, but disagree with the implementation. There should only be one Code to follow, not an alternate Code. This violates one of the pillars of a fair tax Code - it should allow the taxpayer to forecast his/her liability and plan for it. If nothing else, at least set the AMT exemption amount as if it were indexed to inflation from its inception (and not from 2013). In practice, it impacts people that Congress never intended to target. The exemption amount should be set to a level that targets the types of people it was originally intended for - super wealthy people. As of now, it increasingly ensnares the middle class. Try explaining to a middle class couple in a high tax state with 4 children that they are subject to the AMT.

6) Similar to the AnnualFreeCredit.com; the government's requirement that the 3 major credit bureaus let us know the info reported on us; the IRS should provide transcripts of informational returns (W2s, 1099s, 1098s) - but the government should not prepare returns for taxpayers; such an act would be a tremendous conflict of interest and breach of trust. The government and its agencies can not represent taxpayers. For the sake of fairness and transparency, there must be an intermediary step between the two parties. But the IRS can and should provide transcripts, much in the way that the SSA provides annual statements of expected benefits based on reported earnings.

7) The IRS is a much maligned - mostly unfairly - organization that serves the public interest by raising revenue. Most agents I have worked with were decent folks just trying to go about their day. Occasionally one runs into a bad apple; but this is true of every organization. Rather, the problem with the IRS is that they take an adversarial approach when that may not be necessary. The IRS needs to be properly funded so that true tax cheats can be dealt with. But there also needs to be proper training so revenue agents can give correct advice, and further, that taxpayers can reach an agent when they need to. Now, it can take days to reach an agent due to increased hold times. And if you can reach an actual agent, they most likely won't be able to advise you on the correct course of action. How can the agency charged with enforcing the Code do so if they don't have people that understand the Code?

8) The tax Code, like much of society today, has little "shoulder space"; meaning, if a taxpayer gets off track with their filing or payment, unintentionally; it is very difficult, once they get behind to get them back on track. There's no room for (honest) errors. There needs to be a way to get people who for whatever reason, got out of the habit of filing/paying - back into the habit. We must establish a "shoulder", because there is already a "cliff" for those that willfully flout the Code.

9) In acknowledging something the Code gets right: limiting the deduction of passive losses to passive income and portfolio losses to portfolio income. The taxpayers should not be on the hook for the poor investment choices of others.

10) The tax theory that states that US citizens and residents must pay tax on world-wide income needs to be modified. On the one hand, it is aimed at preventing people from unfairly hiding assets, a necessary goal. However, in practice many people are subject to multiple layers of tax on the same income. Perhaps a solution here would be to exempt earned income while working outside the USA, while leaving intact the provisions for taxing investment assets outside the USA.

11) Congress must pass its laws by October. The IRS must publish its forms by November. The software providers must release their first drafts by December. Tax season must start in January. Over the past several years, Congressional gridlock has pushed this traditional calendar back farther and farther. This year, our filing season was for all practical matters, about 7 weeks. The Code became infinitely more complex and the filing season became shorter. I haven't seen my children for more than a few minutes each morning in over 4 weeks. You have got to take the politics out of the tax law codification process. It's just not cool.

12) In his book, "The Undercover Economist", Tim Harford stated (paraphrasing here) that, "...the only people that benefit from a complex tax code are CPAs and attorneys..." That is a typical thing for an economist to say. In the safety of the ivory tower, that may have a ring of truth. But down in the real world where I work every day, nothing could be farther from the truth. All the CPAs I know want a simpler Code. There will always be a need for impartial, competent financial advice. The Code has grown so complex that full compliance is harder to achieve. Rules are vague, relevant tax court cases are not allowed for precedent, different agencies such as HHS and IRS pass conflicting regulations. The taxpayer and the tax preparer are caught in the middle.

13) In passing Circular 230, The IRS took the position that the tax preparation industry was part of the problem. In part, that is true. But most attorneys, Enrolled Agents, and CPAs that I know are not part of the problem. As discussed in item #2 above, it is the unlicensed tax preparers that are the biggest part of the problem. The IRS should recognize that CPAs, EAs, and attorneys actually help increase compliance. If you're going to let the IRS deputize me, at least have them issue me a badge and handcuffs. (This last statement is meant in jest; the point is that the IRS needs to stop being adversarial with taxpayers and tax preparers without reason.)

14) In losing many court cases to the armies of attorneys retained by well funded corporations and wealthy people, the IRS turned its sites on a group that was more vulnerable: small business owners and self employed individuals. Thus gave rise to the great bogeyman that is the "Tax Gap". The "Tax Gap" is grossly overstated. It is a justification to unfairly target small business owners and self employed individuals. The report that raised this issue looked at a sample of only 19 cases that were cherry picked in order to prejudice a specific result. This was a textbook example of "selection bias".

Most people in this country want to comply with the Code. Consider the nation of Italy. Tax evasion as a national pastime has been well documented there. So much so that it has impacted their national economy. If there was really a tax gap here, perpetrated by self employed people, the effects of such a thing would be readily apparent. There are no effects because there is no large scale cheating by self employed people.

15) There is too much leeway in worker classification. Companies are incentivized to classify workers as contractors when they are actually employees. Such actions harm employees. While there are certain industries that concentrate this practice, landscaping, construction, dry-cleaners; large - "respected" - companies engage in this practice as well. The rules in this area are vague and should be clarified.

16) The joint task-force (IRS, INS, State Dept's of Labor) on combating illegal labor should not target the employees who may be of dubious legal status - but rather the companies that flout the law and hire such people. And the companies that utilize the services of companies that hire such people. I lost a business; I used to manage a professional janitorial services company - I was personally harmed because I couldn't compete with other companies in my industry that used illegal labor. My customers didn't care that the work was done by illegal labor; they just wanted the lowest price. I closed my business rather than break the law. A lot of people lost their jobs. I lost my capital. The nation and the state lost tax revenue. A greedy employer made a buck at the expense of undercompensated illegal labor and a feckless business owner perpetuated the system.

17) A clear definition of what business actually is should be affirmed. Business is the offering of a service or product that gives value to the market. The greater the value offered, the more the business should be compensated. Any entity that does not offer value, should not be given the title of "business", rather it should be called for what it is: fraud. People operating without a license (in industries that require them), companies that use illegal labor, people that don't provide services for which they collect fees for, companies that sell defective products. This is not business. It is a drag on our economy and it harms our people. Let's call it out for what it is and make a distinction between an actual business and a fraud.

18) When even a Treasury Secretary makes errors on his return (Timothy Geithner) that has to be a wake up call. One doesn't just walk into that job. One must be intelligent, educated, and competent. If the head of the Treasury department can't do his own return correctly, something has to change.

This is meant partially in jest, partially as a "thought exercise":

My suggestion is that the members of Congress charged with writing our nation's tax laws should have to prepare their own returns without the aid of a professional adviser AND that they should prepare their own returns without the aid of a computer. As Congress goes through their work of enacting our nation's tax laws, if they think through the process of doing a return by hand, that will hopefully inform them on the process.

I learned this trade by hand. There is no way that a tax return could be done by hand with today's Code.

There is no such thing as a simple tax return. Not any more. The growing complexity is a problem of epidemic proportions.

Conclusion:

If you've read this far, thank you. Even if you don't act on these items, it means a lot to me that my voice - speaking on behalf of my colleagues, clients, neighbors, friends, and fellow citizens, was heard.

The tax Code is a monument. It belongs to all of us. It serves the purpose of providing for the common good. Roads and bridges, tanks and fighter planes, judges and courts, parks and services; these are things that are funded by our taxes. In addition to raising revenue, it is the rules by which we govern ourselves. It creates the level playing field upon which businesses and individuals compete. It must be fair. We in America play by the rules. We value fairness.

The Code must be made fair. Take the politics out of the tax process. Simplify the Code. Let us pursue our life, liberty, and happiness without the onerous encumbrance of this most critical, yet out of control body of law.

And now, with less than 48 hours to go before the filing deadline expires, I turn to extensions. Which - is a difficult matter because as you may know - but most Americans do not know - Extensions are for filing, not for paying. So preparing an extension is not a trivial matter. Which, thanks to the recent Treasury regulations concerning supplies inventory and repairs/capitalization as well as provisions of the ACA (which I support by the way), I have many extensions to prepare.

Fortunately, there are caffeinated beverages available.

Lastly, a humble request: The next time you solicit comments from the public, please don't have the deadline coincide with April 15th.